

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 96-4176

Michael Eugene Johnson,

Appellant,

v.

Bruce Babbitt, Secretary of the
Department of the Interior, James H.
Jacobs, an individual; United States
of America,

Appellees.

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Appeal from the United States
District Court for the
Eastern District of Missouri.

[UNPUBLISHED]

Submitted: January 14, 1998

Filed: March 2, 1998

Before McMILLIAN, LOKEN, and MURPHY, Circuit Judges.

PER CURIAM.

Michael Eugene Johnson appeals from the district court's¹ order substituting the United States as party-defendant, granting defendants' motion for summary judgment on his Title VII claim based on a racially hostile work environment, and granting their motion to dismiss for lack of jurisdiction his Federal Tort Claims Act (FTCA) claims.

¹The Honorable Catherine D. Perry, United States District Judge for the Eastern District of Missouri.

Having carefully reviewed the record and the parties' submissions on appeal, we conclude that the district court properly substituted the United States and granted defendants summary judgment, and we affirm as to those issues on the basis of the district court's thorough opinion. See 8th Cir. R. 47B. We also conclude that the dismissal of Johnson's FTCA claims was proper. Although the district court correctly held that Johnson had failed to exhaust his administrative remedies on these claims, we affirm the dismissal because the claims are barred by sovereign immunity. See Forrest City Mach. Works, Inc. v. United States, 953 F.2d 1086, 1087 & n.3 (8th Cir. 1992); 28 U.S.C. § 2680(h) (FTCA does not apply to any claim "arising out of" libel or slander); Moessmer v. United States, 760 F.2d 236, 237-38 (8th Cir. 1985) (dissemination-of-false-information/defamation claim falls within libel and slander exception to FTCA waiver of sovereign immunity).

Accordingly, we affirm the judgment of the district court.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.